

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Freeman et al.	Art Unit	: 3766
Serial No.	: 10/786,359	Examiner	: Brian T. Gedeon
Filed	: February 24, 2004	Conf. No.	: 3423
Title	: USING CHEST VELOCITY TO PROCESS PHYSIOLOGICAL SIGNALS TO REMOVE CHEST COMPRESSION ARTIFACTS		

Mail Stop Appeal Brief - Patents

Commissioner for Patents
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REPLY BRIEF

Pursuant to 37 C.F.R. § 41.41, Applicant responds to the Examiner's Answer as follows

The examiner's answer presents an entirely new theory to support anticipation by Halperin (Answer, page 9, lines 1-12). The examiner is still relying on the same paragraph in Halperin (col. 11, lines 50-58), but he now gives it an entirely different interpretation.

The new theory for anticipation is as unsound as the first.

The examiner's first theory (Office Action, page 5, lines 4-8) was that Halperin teaches that velocity is an example of noise associated with the CPR artifact, and therefore it would have been obvious to filter out velocity. We explained in our Appeal Brief why that theory did not hold water (Appeal Brief, pages 4-6).

In his new theory, the examiner begins by stating accurately that Halperin teaches at col. 11, lines 50-58 that while acceleration is one parameter that can represent the CPR induced artifact, other parameters related to acceleration, such as velocity, distance, force, and motion, may also be used to represent the artifact. But then the examiner abandons the actual disclosure of Halperin, and makes the following unsupportable conclusions (emphasis added):

Velocity is an equivalent value to be used as the a_r signal in removing CPR-induced artifact from the ECG signal. In view of this, the use of a velocity signal to represent the induced artifact is anticipated since it is clearly taught by Halperin et al. that velocity is a suitable measurable signal for doing so.

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Halperin does not teach, as the examiner indicates, that “velocity is an equivalent value to be used as the a_r signal in removing CPR-induced artifact from the ECG signal” (emphasis added). The examiner has twisted all meaning out of what Halperin has written. Halperin does not indicate that velocity is to be used “in removing CPR-induced artifact”. Quite to the contrary, what Halperin actually says is that velocity is one of several parameters that can be used to represent the CPR induced artifact. There is a world of difference between saying that velocity can represent the artifact and that velocity should be used to remove the artifact.

Halperin does not teach anywhere, let alone in this paragraph at col. 11, lines 50-58, that velocity should be used to remove CPR induced artifact. The only use of velocity to correct anything is its use to correct for hand tilt during CPR (and the examiner concedes that this use of velocity is not relevant to the invention (Answer, page 9, lines 13-15).

For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 5/17/2010

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